

**FCC Workshop  
Reforming Inmate Calling Services Rates  
July 10, 2013  
Washington, DC**

**Please note:** A transcript of remarks made at the workshop is available in the official record of the proceeding, WC Docket No. 12-375. See: <http://apps.fcc.gov/ecfs/document/view?id=7520930723>

**Panelist Presentation Highlights**

**Panel I: Consumers and Public Policy**

**Mr. Alex Friedmann  
Associate Director  
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For prisoners, maintaining contact and communication with their family members and communities is vitally important, as the vast majority of prisoners will eventually be released. For several reasons, including the fact that prisoners are often held in remote facilities, which makes in-person visitation difficult, as well as a high rate of illiteracy among prisoners, phone calls are the primary mode of communication.

The impact of high telephone rates on the ability of prisoners and their families and loved ones to communicate cannot be understated. Our research into this issue provides not only statistical data with respect to the cost of prison phone calls, and the percentage and dollar amounts of commissions paid by ICS providers, but also offers a window into the real-world hardships that prisoners and their families experience due to the monopolistic nature of the prison phone industry.

This workshop presentation will include a summary of our research into prison phone rates and commission payments nationwide, and the impact of same on prisoners and their family members – who are the most affected stakeholders.

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**The Honorable Patrick A. Hope  
Member, 47<sup>th</sup> District (Arlington)  
Virginia General Assembly  
P.O. Box 3148  
Arlington, VA 22203**

I will discuss the public policy benefits provided by my legislation and reduced ICS rates. This includes strengthening ties with families, especially children, and ensuring success once

released into the community. Success is measured by securing housing, a job, and not re-offending. The economic benefits of re-entry programs are overwhelming.

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**Ms. Cheryl A. Leanza**  
**President, A Learned Hand, LLC (On behalf of United Church of Christ's media justice and communications rights ministry)**  
**2603 Ross Road**  
**Chevy Chase, MD 20815**

Faith community supports reform of rates. These views are shared across the conservative and progressive Christian and other faith groups.

Civil rights community supports reform. Polling of communities of color evinces strong support, as well as long history of criminal justice reform more broadly, particularly fight against recidivism.

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**Ms. Talila "TL" Lewis**  
**Founder**  
**Helping Educate to Advance the Rights of the Deaf (HEARD)**  
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Deaf and hard of hearing prisoners are not provided equal access to telecommunications at state and federal prisons across this nation.

The Rehabilitation Act and the Americans with Disabilities Act proscribe prisons from directly, or through contractual or licensing arrangements, denying people with disabilities the opportunity to participate in or benefit from the prison's activities, programs or services. These same laws require that prisons make reasonable modifications to policies, practices, or procedures when necessary to avoid discrimination on the basis of disability. In the case of a deaf or hard of hearing prisoner, equal access does not mean the same access as hearing prisoners. Inmate Calling Services must ensure that deaf prisoners can benefit from telephone services to the same extent as their hearing peers, and must not charge more for receipt of this comparable service.

At many prisons, deaf prisoners have no telephone access to their loved ones. Family members of deaf prisoners who do have access to telephones (via TTY), are forced to pay the same or, in many cases, higher rates to communicate on the antiquated and despairingly slow TTY, which can easily take more than four times as long as communication via traditional telephone.

At prisons where hearing prisoners receive courtesy local phone calls, deaf prisoners are charged to make local TTY calls; at facilities where hearing prisoners have access to discounted rates during evenings and weekends, deaf prisoners cannot access the TTY that often is located

in a counselor's office; and where hearing prisoners' family members can send funds directly to their loved one's telephone account at discounted rates, deaf prisoners are only able to make collect calls.

The cost of these calls is often so outrageous, and communication via this medium so garbled, unreliable and unsuccessful, that deaf prisoners and their family members are forced to resort to degrading and dehumanizing alternatives: deaf prisoners begging, paying, or trading "favors" so that a hearing prisoner can call his wife, sister, or mother; relying on this hearing prisoner to facilitate communication the best that that hearing prisoner can.

Deaf prisoners and their family should not pay the same or higher rates to use TTYs and telephones; these prisoners should have equal (not the same) access to telecommunications as hearing prisoners; voice command systems that do not allow deaf or speech impaired prisoners to utilize telephones should be remedied; and relay numbers should not be blocked. Most importantly, Inmate Calling Services should be required to install videophones, captioned telephones, and other auxiliary aids for deaf, speech impaired and signing prisoners to ensure equal telecommunication access for ALL prisoners.

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**Mr. Timothy Meade**  
**President and Chief Executive Officer**  
**Millicorp**  
**12748 University Drive**  
**Fort Myers, FL 33907**

Mother Teresa once said, "If I look at the mass, I will never act. If I look at the one, I will."

As important as the mass is with our issue, I want to start with the one. I want tell you about a real person. Someone who I have met in person, and corresponded with extensively over the years. I'm going to call him Erik. Not his real name, but it will do. Erik is in his low 20's and he made a very bad mistake. He admits it. What he did is not important to this story. Let's just say his regrets are something most of us really cannot understand and he lives every day with the knowledge he is spending the next 10 years in a Federal Prison. Erik's only relative who will talk to him is his mother. She is a single mother, finding it very hard to find work and has nothing extra to send to Erik except her love and support. Actually this is a lot, as everyone needs to know someone loves and supports them no matter who they are or what they did.

Erik writes letters, and now he can send e-mails but he cannot really afford to call his mother. A little back story, for those of you who don't know, in a Federal Prison phone rates is fixed. They are 23 cents per minute for a long distance US call and 6 cents for a local call if the call is paid for out of the inmates commissary account. Much more if it's a collect call, but not anywhere near what the calls cost through one of the large Prison Payphone Providers in the State and local jails. Erik wants to talk to his Mom. So he actually has a job at the Prison by choice. He walks around for 4 to 6 hours a day looking for things to pick up. For this he gets paid 17 cents per hour into his commissary account. I would like you to think about that for a

minute. For every hour he works, he gets to talk to his mother for less than one minute. Forty hours of work, a full weeks' worth of work, means twenty-nine minutes of talk time if he uses every penny of his wages for the phone calls. And Erik plans on doing this for the next 6 years remaining on his time there.

So this is why we are here, isn't it? It's been proven over and over again that those in prisons do much better when they get out with just this one simple fact--they need to maintain a link to those in the outside world. Sure they can write letters and in some places they can even email. But is that really the same as hearing a voice? As hearing a mother tell her son that someone loves him? I don't think so. I really don't.

I'm an engineer and an entrepreneur. I've created a lot of software over the years and built more than a few companies. So I asked myself, how can I help Erik and the more than 2 million like him? Not to mention the untold millions of wives, husbands, mothers, fathers, and most especially the children of those incarcerated. Then it hit me one night. Twenty-Three cents versus six cents. If Erik only had to pay six cents per minute for his calls, he could then talk to his mother for over 2 full hours for that 40 hours worked instead of 29 minutes. It doesn't seem like much to us, but to Erik it's 4 times the contact that he had before.

I own a telephone company. Not a big company, but it's a good company. We buy and sell minutes to businesses. We have an iPhone app, that kind of thing. And one evening it came to me; using our network and infrastructure to provide people like Erik's mother the ability to have a local phone number near the Federal prison was very easy to do. This led to the creation of ConsCallHome.com so we could provide local phone numbers to those who needed them most. Our first customer was in June 2008. Since then we have worked with hundreds of thousands of friends and families of incarcerated individuals providing them with local numbers near the prisons and jails where their loved ones are located saving an average around 80% on the calls. To us this is not about making money. It is personal. Millicorp has made almost 20 trips to Washington over the last four years. We came to discuss inmate's family's issues with the FCC, Congress and anyone else who would listen, and we will keep coming until this injustice is fixed.

But the road has been rocky. Certain state and local inmate calling service providers (but not the Federal Bureau of Prisons) historically have blocked inmate calls to my customers. We at Millicorp have been treated differently by these inmate calling service providers than other VoIP companies like Vonage because our business model is to save money and facilitate communications for inmates. The issue of whether this call blocking is legal has been before the FCC for several years and I'm hoping that the FCC soon will resolve the matter once and for all. But simply prohibiting the call blocking ultimately won't fix the problem. It is merely a piece of the solution to egregiously high prison phone rates. Further rate reform is still necessary.

So that's why I'm here. One day I met the individual. This let me hear the masses that need our help. Now is the time to clarify that new technologies like Millicorp's can be used to assist inmates to more cost effectively remain in touch with their loved ones, but that is just the start. Every year it gets cheaper and cheaper to make a phone call. Why are those that can afford it the least paying the most?

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**Mr. Charlie Sullivan**  
**Founder**  
**Citizens United for Rehabilitation of Errants (CURE)**  
**P.O. Box 2310**  
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The title is "The Role of the Family in Reducing Recidivism." I will talk about the 40 years that I and CURE have worked in trying to keep the family together and the crucial importance of phone calls in this effort. I will highlight my role in this by commenting on my experience first for 13 years in Texas and for the last 27 years here in Washington, DC.

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## **Panel II: State Actions to Reform Inmate Calling Rates**

**Ms. Anne C. Boyle**  
**Chair**  
**Nebraska Public Service Commission**  
**1200 N Street**  
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**Lincoln, NE 68508**

Nebraska is one of a handful of states that does not add incentives for prison phone calls. However, that policy is applies only to State of Nebraska facilities. Thus city, county and private facilities are able to access fees from carriers. Nebraska State Senator Ernie Chambers will hold an interim study in September to address a variety of questions regarding local and private detention centers.

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**Ms. amalia deloney**  
**Associate Director**  
**The Center for Media Justice**  
**436 14th Street, 5th Floor**  
**Oakland, CA 94612**

Good afternoon.

Let me start by thanking everyone who is the room today. I also know there are hundreds of community leaders watching online from across the country—thank you for your support. Most importantly, I want to extend a special thank you to Chairwoman Clyburn and her staff, and the entire FCC, for hosting what should be considered a historic event.

My name is amalia deloney and I coordinate the media policy initiatives of the Center for Media Justice and the Media Action Grassroots Network

For over two years, MAG-Net, Working Narratives/Nation Inside and Prison Legal News have led the national Campaign for Prison Phone Justice. Together we’ve generated 90k petition signatures, filed over 1700 letters from prisoners and collected over 2k signatures to comments we’ve submitted to the FCC. These numbers represent the families who pay the high cost of phone calls—week-in and week-out, often for years. We’re here today on their behalf.

Martin Luther King Jr. once said, “the arc of the moral universe is long, but it bends toward justice,” and we believe it does. Today, after more than 10 years, we’re here at the FCC for what we hope is the final step before resolution.

Of course we couldn’t have gotten here alone—and that is what I’m here to share. I want to talk about the significant leadership that states have shown on this issue and highlight the ways that States are the laboratories of democracy.

When the Wright Petition was filed in 2003, all 50 states accepted commissions from telephone companies. Since then, eight states have eliminated commissions and recently other states have decided to fight for reform.

Currently MN, CA, New Jersey and WA are working for State Legislation or Regulatory orders to eliminate commissions, and recently both Maryland and Massachusetts hosted public hearings on the issue. Finally, the National Association of Regulatory Utility Commissioners and the FCC's Consumer Advisory Committee issued strong resolutions urging reform.

These State and community leaders know that telecom regulation is a necessary component of community building. They know that communications policies influence the structures of our country's communications systems—which in turn impacts the overall health and wellbeing of our country. Specific to prison phones, the ability to make affordable calls to family and friends has a direct impact on community safety, family stability, re-entry, recidivism, and crime reduction. When families are able to remain affordably connected throughout the duration of a sentence—the community benefits overall.

With over 2 million people incarcerated—this is something that touches us all.

*Please raise your hand if you have served time, or if you have a friend/family member/loved one who has served time or is serving time*

As you can see—it touches us all.

Love, forgiveness, stability, redemption, strength, connectivity, community, and hope are values that cannot be monetized—yet they are, each and every time a call is placed from a correctional facility. The price that is paid is not only too high for the families who are forced to make these payments—it's too high for society.

*Let me say that again—the price is too high for society.*

At its core, good communications policy is about equal opportunity and equal access to important local and national resources and infrastructure—our families and our communities depend on this.

Yet this policy is often shaped by 'facts.' But having the facts is not enough. Facts by themselves only tell us what is; they do not tell us what ought to be. But good leaders can help shape this vision—especially when they listen to the wisdom of people who are directly impacted. Our experience should help shape the rules that we live by—not a corporate profit margin.

Many states have begun the hard work of turning towards justice—led by many of the esteemed panelists who are with me today. Let us follow their lead on this critical issue and ensure that our nation as a whole moves with values that strengthen our families and our communities.

Thank you.

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**The Honorable Patrick A. Hope**  
**Member, 47th District (Arlington)**  
**Virginia General Assembly**  
**P.O. Box 3148**  
**Arlington, VA 22203**

I will discuss what happened to my legislation, what considerations were given for its passage, and plans in the future.

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**Mr. Barry S. Marano**  
**Case Management Counselor and ADA Coordinator**  
**Powhatan Correctional Center**  
**3600 Woods Way**  
**State Farm, VA 23160**

I am interested in discussing the videophone program for incarcerated persons and exploring possible future communication improvements for this special population. In addition, I would like to discuss the experiences encountered providing this videophone service to this population.

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**Mr. Jason Marks**  
**Former Commissioner - New Mexico Public Regulation Commission**  
**5704 Central S.W.**  
**Albuquerque, NM 87105**

Inmate phone services are a unique market inherently characterized by “reverse competition” because of the setting and security requirements. Reverse competitive markets are ones where the financial interests of the entity making the buying decision can be aligned with the seller, and not the buyer. Reverse competition occurs in other contexts, e.g., appliance warranty insurance sold by the appliance dealer; however, it can be at its most pernicious in the inmate phone service context because buyers not only do not have a choice of service providers, they also have strong reasons not to elect to forego using the service entirely. This is not to imply that facility monopoly contracts for phone services are in anyway inappropriate, only that this is a market that cannot be made efficient by competition and requires price regulation.

New Mexico’s experience was that restricting state facilities from taking cash kickbacks, done by statute in the early 2000s, was a good step, but did not entirely solve the problem. Not all facilities were not reached by the statute (e.g., federal). We also found that inducements to facilities could take other forms. After one or two company-specific investigations suggested that a “wild west” attitude was still pervasive, the NM Commission determined that

comprehensive rate regulation was needed. Significant regulatory issues that were identified were (A) making a determination as to whether services which included both hardware and connection to the PSTN were telephone services subject to regulation, (B) determining whether ancillary fees for things like charging prepaid cards (which were frequently a major source of revenue) should be regulated, and (C) determining reasonable cost caps.

N.M.'s final rule (November 2012) mostly followed a consensus proposal by Commission staff and two of the leading service providers, which was opposed by another service provider group. It was generally supported by the Criminal Defense Lawyers group. The rule requires registration and annual reports, sets up rate and fee limits and prohibits charging fees outside the authorized list, customer service provisions, and a requirement that inmates have access to some mechanism to making a call without a prepaid account. Rates were capped at \$0.15/min, with no per-call charges allowed for prepaid calls and a \$1.00/call cap for collect calls; prepaid card set-up and recharge fees were capped at \$3.00/transaction. Variances to rate caps are potentially available for low-volume/high cost facilities. Recently, providers moved for a rehearing of the rule's restriction on per-call charges being charged for calls lasting less than 60 seconds.

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### **Panel III: Providing Inmate Calling Services**

**Mr. Mitch Lucas**  
**Assistant Sheriff**  
**Charleston County Sheriff's Office**  
**3505 Pinehaven Drive**  
**Charleston Heights, SC 29405**

While jails and prisons may look alike, and are certainly viewed by many people as being the same, they are very different entities. Prisons hold persons convicted of crimes, most with clearly determined sentences, which comprise a fairly static inmate population. Prisons are normally very large facilities and are typically constructed in remote locations; most of the inmates are not from the geographic area where they are being housed. Interstate telephone service is normally important to prison inmates. Jails, on the other hand, are part of the local community, and most of the approximately 3,300 jails in the U.S. are small operations with small inmate populations. The majority of persons being housed in a jail have not been convicted of the crime they are charged with, and the rest are serving sentences for minor offenses. As a general rule, 75% of all jail inmates booked into a facility are released within their first 72 hours of incarceration, typically by either providing a monetary bond or being released on their own recognizance. Many of the remaining inmates are released prior to their court dates after lengthier stays for the same reasons or other judicial mechanisms. Typically, the people incarcerated in a jail are from the community, with family and friends close by, as well as employment, medical care, and other life needs. There are exceptions, such as when the jail is located in a large city or an area with a large transient population and interstate telephone services are more important to these jail facilities. In most jails, local and intrastate telephone service is more important. Most jails contract with private vendors for inmate telephone services. Since most inmates are from the community, the bulk of the phone service deals with local calls. In a great many cases, interstate calls are a small percentage of inmate phone calls.

While jails are the common denominator in our criminal justice system, they have the least impact on case against criminal defendants. Pre-trial detainees who remain in jail either cannot make bail, or have been denied bail, and are simply awaiting their trial. The purpose of the jail is not to punish these inmates, but to keep these inmates secure and provide their basic needs. Most jail administrators recognize that maintaining communication with family and friends is a basic need for most inmates; additionally, telephone access to defense attorneys is crucial to the inmate mounting a credible defense against their criminal charges.

In order to maintain a safe and secure facility, jail staff must manage inmate behavior. Modern inmate behavior management calls for the rewarding of acceptable behavior and disciplining unacceptable behavior. Discipline often involves restricting privileges. In almost every state, jail inmate telephone usage is a privilege, not a protected right. It follows that inmate telephone usage has become an important inmate behavior management tool, the same as television, commissary privileges, recreation time and participation in inmate programming. Effective and judicious uses of such behavior management tools create a secure jail environment for both staff and inmates.

Because of the bias against anyone charged with a crime and incarcerated in a jail, most local governing bodies are not generous when it comes to funding jail operations. The public supports this position because they generally believe people in jail are guilty of their crimes and should be punished, even though most have not been convicted. This insufficient operational funding creates the need to contract inmate services like telephones. Such contracts will provide telephone line access, telephone devices, monitoring and recording equipment, as well as maintenance and repair costs. Telephone equipment has to be “detention grade” because of the rough use and abuse by inmates. If repair costs were not included in the contract, many phones would be unusable and not be repaired because of funding shortages.

Since such contracts are normally selected in a competitive bid process, the contract telephone providers offer jails a commission of some sort in return for the opportunity to provide the service. This is not an unusual situation for jails. The same is true for commissary contracts. Revenues realized by jails from telephone contracts are normally placed in an inmate welfare account, which can only be used to benefit inmates directly. In some jails where operational funding is particularly inadequate basic necessities might be purchased with the telephone revenues. Jail administrators understand that the true source of these telephone revenues are family members and friends, who only want to stay connected to the inmate. The situation is no different than money spent by inmates from their commissary accounts, the cash bonds that are posted on the inmate’s behalf, and any other costs incurred by the inmate while incarcerated.

The American Jail Association is aware that there are instances of inmate telephone costs being disproportionately high when compared to other telephone rates, and we do not support inmate families being subjected to excessive fees. We believe such exorbitant fees are not the norm and most inmate calling services are provided at reasonable rates. The AJA also understands that each jail exists in different funding environments with varying degrees of community infrastructure. Since jails are always subordinate to a local or state governing body, there are remedies for those family members and friends who feel they are being overcharged for telephone contact with local inmates. Rather than imposing a national regulation on allowable costs for local jail telephone services, local governments should be held responsible for entering into contracts that impose unfair fees for inmates under their control. It has been my experience that citizens can interact directly with their locally elected representatives with successful results. Taking concerns to a local legislative body or executive will at least cause the contract and fees to be reviewed and reassessed.

Creating a federal regulation which requires specific telephone services and equipment, limits the amount of profit to unreasonable amounts, or restricts commissions to local jails may have terrible results which worsen the situation:

Inmate telephone service providers may not be willing to provide interstate services to small jails, due to lack of utilization and profit. Resulting in the inmate being unable to communicate with out-of-state family and friends.

Jails may not be able to attract vendors willing to include repair and maintenance costs, causing inmate telephones to fall in to disrepair and unusable. Resulting in no telephone

communications for many inmates to family, friends and lawyers, as well as removing an effective inmate management tool.

Vendors may not be willing to provide telephone monitoring and recording equipment which is crucial to jail security. Resulting in inmates contacting victims, criminal associates and establishing inappropriate and illegal relationships with detention officers.

The American Jail Association encourages the FCC to consider the distinct differences between jails and prisons. Each of the 3,300 jails in this country faces different legislative guidelines, budget procedures and constraints, and technology infrastructures. Any narrowly written regulation will not only cause tremendous difficulty in compliance for a large number of those jails, but in all probability will reduce telephone services available to inmates and their families.

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**Mr. Lee G. Petro**  
**Of Counsel**  
**Drinker Biddle & Reath LLP**  
**1500 K Street, N.W.**  
**Washington, DC 20005**

The FCC has the statutory authority under Sections 201, 205, and 276 of the Communications Act, as amended, to provide immediate relief to millions of inmates and their families. The FCC has received unimpeachable evidence that increased contact between inmates and their families during incarceration reduces the odds that the inmate will return to prison upon release. As demonstrated in the Petitioners' Comments, the reduction in the number of repeat offenders by only 1% will result in savings of at least \$250 million for states, counties and local governments.

The Petitioners have demonstrated that the actual cost for providing the telephone service is less than 5 cents. With the inclusion of a reimbursement for the centralized security measures, the adoption of a benchmark ICS rate of \$0.07 will provide a reasonable profit for ICS providers, and a pool of revenue to share with states, counties and local governments. There is simply no reason why one phone company charges \$3.95 for the first minute in one state, and less than a dollar in another state, in light of the centralized, VOIP-based ICS calling system. While it has been argued that the profits shared between the ICS Providers and the correctional facilities are used for inmate welfare programs, there is substantial evidence that most of these profits are deposited in a general fund. Where these funds are put into specialized inmate welfare funds, more than half of the fund is used on general items such as salaries, construction, and maintenance.

Finally, the FCC must take steps to eliminate the Ancillary Fees that are imposed inmates and their families. The record demonstrates that the mere act of funding an ICS Provider account can cost up to \$12, and customers must also pay to receive an account statement and a refund from their account if it is no longer needed. At least one ICS provider has already come out against these excessive charges.

In sum, despite the fact that the U.S. District Court ordered the FCC to resolve this proceeding “with dispatch” in 2001, this proceeding has now been pending for twelve years. Since 2001, the Petitioners have consistently demonstrated that the costs associated with providing ICS are substantially less than the rates being charged ICS customers. In light of the FCC’s statutory obligation to eliminate unjust and unreasonable rates, charges and practices, there is no justifiable reason for further delay.

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**Mr. Richard D. Torgersrud**  
**Chief Executive Officer**  
**Telmate, LLC**  
**234 Front Street, 2nd Floor**  
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- 1) The proposed rate cap is fundamentally in conflict with the business economics and realities of the ICS marketplace. The modern-day requirements for inmate communications show unequivocally that ICS services are vastly different, more complex, with much greater security and cost requirements than *any* public telecommunications system. ICS providers have, in the recent past, made technological advances that increased the security of inmates and staff within the facilities as well as the general public outside of it. (The salutary effect of these advances is that inmates are allowed greater access to telephones.) The public payphone and prepaid cellular markets are analogous in some ways to the ICS market. However, in each of them, the average per minute call prices are tremendously higher, and in neither market are the providers required to deliver the expensive features that those in the ICS market are.
- 2) Site commissions are a direct cost of doing business. The vast majority of the correctional facilities with which we do business have made a decision to ask for a commission for the right to install our telephone system in their facility. This is a public policy choice made by cities, counties, and states. As we have zero control over whether a facility requests a commission or not, we view site commissions as a cost of doing business. It is imperative for the Federal Communications Commission to remember that the site commissions overwhelmingly go to fund rehabilitative programs for inmates. If commissions were eliminated – given the budgetary constraints being faced across the nation – the likelihood that those programs would continue to be funded is low.
- 3) Implementing a \$0.07 rate cap would have terribly negative consequences. If the FCC were to adopt a \$0.07 per minute rate cap and simultaneously eliminate commissions that the correctional facilities receive, two very real and serious consequences are likely. First, many ICS providers would exit the market as it would be economically impossible to operate under such a regime. Second, those ICS providers that remained in the market would not offer the same security and investigative technologies upon which law enforcement officials have come to rely. As a result, many facilities would choose to eliminate or drastically reduce the access that inmates have to telephones, as the security risk would be too high to allow the inmates unfettered access. Additionally, were the Commission to adopt the proposed rate

cap, future technological advances within the ICS industry would certainly be drastically slower than they would be otherwise, if not completely eliminated.

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**Mr. Vincent Townsend**  
**President**  
**Pay Tel Communications, Inc.**  
**9 Oak Branch Dr., Suite A**  
**Greensboro, NC 27419**

Pay Tel is supportive of the Commission's efforts to reform Inmate Calling Services (ICS). In undertaking reform, Pay Tel urges the Commission to take into consideration the following six critical elements:

- 1) **Balanced Reform Is Needed** - The Commission should adopt appropriate reform giving due consideration to all affected parties: consumers are entitled to fair and reasonable rates; providers should be permitted to earn a reasonable return on their investment, and facilities should be compensated for their costs of ICS administration to ensure that phone service continues to be readily available to inmates.
- 2) **Comprehensive Approach Is Required to Achieve the Desired Result** - Merely addressing a portion of the industry's many challenges in a piecemeal fashion will only lead to ineffective results. This will lead to unintended consequences such as new fees increasing costs for consumers, increased incentive for rate arbitrage, and the resulting reduction in phone access.
- 3) **Proposed Benchmark Rate on Interstate Calls Will Not Work** - Adoption of the Wright Petitioners' latest proposal to establish a benchmark ICS rate only for interstate calls at \$0.07 per minute with no upfront surcharge is not sustainable in a jail setting. This would lead to immediate "rate shopping" or arbitrage to the detriment of safety and security in all facilities. This rate would also cause severe financial harm to ICS vendors such as Pay Tel that provide service in small to medium size jail facilities, and would result in further industry consolidation by the two dominant national companies.
- 4) **Separate Rate Analysis for Jails and Prisons Is Required** - The Correctional Industry is comprised of different types and sizes of facilities that have significantly different inmate phone service cost characteristics. In particular, jails and prisons should be treated separately by the Commission with respect to any consideration of ICS costs and the application of any resulting rate cap.
- 5) **Facilities Must Receive Cost Recovery** - If the FCC sets rates that do not include a commission for facilities, administrators will not have the necessary funds to cover the legitimate costs to administer and monitor phones in a manner sufficient to provide adequate security for inmates, staff, and the general public. Without recovery of these costs, facilities may choose to significantly reduce phone access or discontinue service.

- 6) Fees Charged to Families Must be Addressed to Achieve a Lasting Solution - The Commission must address the growing problem of excessive payment processing fees and multiple add-on fees that in many cases double the real cost of calls to families. Fee levels that far exceed their cost basis serve only to dramatically reduce the funds families have available to place phone calls and the funds available for commissions. The reduction in commissionable revenue penalizes facilities which use these funds to recover the legitimate costs of administering ICS and monitoring phone calls to ensure that inmates, staff and the public are protected.
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**Mr. Peter Wagner**  
**Executive Director**  
**Prison Policy Initiative**  
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At a time when the cost of a regular phone call is approaching zero, one population is forced to pay astronomical sums to stay in touch: the families of incarcerated people. For a child to speak with her incarcerated parent, a family member or friend is forced to pay almost \$1 per minute, plus a long list of fees that easily double the total cost of the call. Faced with phone bills that can total hundreds of dollars per month, many families have to choose between paying for calls and covering basic living expenses. We all lose out from this price gouging because the social science research has firmly established that maintaining family contact increases the chances that people will be successful after release.

Prison phone bills are so high because of a unique market failure: prison systems and local jails award monopoly contracts to the phone company that will charge the highest rates and share as much as 84% of the profits with the facility. The real customers, the families paying the hefty bills, are left entirely out of the decision-making process. In fact, both parties to these contracts profit from disregarding the interests of the actual consumers of prison telephone services.

While the high telephone rates have received much deserved attention, they're just the tip of the iceberg. Our research report "Please Deposit All of Your Money: Kickbacks, Rates, and Hidden Fees in the Jail Phone Industry" finds that fees have an enormous impact on prison phone bills, making up 38% of the \$1 billion annual price of calling home. This report details the fees that prison phone companies charge for "services" such as:

- accepting customers' money (deposit fees of up to \$10/deposit)
- holding on to customers' money (monthly account fees as high as \$12)
- closing customers' accounts (refund fees of up to \$10)

And, as we explain in our report, the charges don't stop there. Some companies operate "single call programs" that charge customers who do not have preexisting accounts up to \$14.99 to receive a single call from a prison or jail. Other companies have hidden profit-sharing

agreements with payment processors such as Western Union. Other companies invent arbitrary fees and give them government-sounding names, even though the fees are not required by the government and may not even be paid to the government. These hidden fees are so complex that it is not even clear that all of the contracting authorities are aware that the companies are using fees to hide income from the commission system.

We also note that, unlike in most industries, bad customer service is a key source of revenue for prison phone companies. For example, most of the industry finds it economically advantageous to use poorly calibrated security systems to drop phone calls and trigger additional connection charges. Other companies show no hesitation to triple the cost of a call made to a local cellphone by charging consumers the more expensive long distance rate.

Meaningful Federal Communications Commission regulation of the prison phone industry must stem from a comprehensive approach. In order to bring fairness to the market for prison and jail telephone services, the FCC must consider families' whole bills, including fees, rather than limiting the discussion to addressing the high per-minute calling rates alone.

The FCC must impose order on this broken and predatory market by capping the calling rates, banning the commissions, and eliminating the illegitimate fees charged for telephone services from prisons and jails.

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**Mr. Timothy O. Woods**  
**Director of Government Affairs & Contracts**  
**National Sheriffs' Association**  
**1450 Duke Street**  
**Alexandria, VA 22314**

First, let me begin by saying that the National Sheriffs' Association supports any FCC rulemaking "to ensure just and reasonable Inmate Calling Services rates." As elected officials, Sheriffs are sworn to SERVE and to PROTECT their communities...every member of their communities. This, however, is a balancing act in regards to inmate calling services.

Sheriffs recognize that continuity of communications between inmates and their families — mothers, fathers, spouses, children — is vitally important, and can also be a positive influence for an inmate's re-integration into society after their release from incarceration. But, Sheriffs — who operate 80% of the jails in this country — also have public safety responsibilities; and there are dangerous individuals in jails who use inmate calling services to contact their victims, and witnesses to their crime; plan escapes; and exploit telephone privileges to continue their criminal activities while incarcerated.

Thus, while the National Sheriffs' Association supports just and reasonable Inmate Calling Service rates, one cannot compare the cost of a monitored telephone call from inside a jail to the cost of unlimited, long-distance monthly calling plans outside of a correctional setting.

There are jail staffing costs for providing and monitoring — sometimes real-time monitoring — inmate calling services; and, these calling systems can be highly sophisticated: blocking inmate calls to certain numbers; detecting calls to the same number by multiple inmates; authenticating voice recognition before an inmate can make a call; etc. In short, there are unique and substantial costs to learning about and securely operating a telephone system inside a correctional facility.

Furthermore, in establishing just and reasonable rates, one cannot lump all correctional settings — jails and prisons — together. A one size fits all is not just and reasonable when jails and prisons differ in their population size, and thus, the size of the calling service system; and in the frequency of their population turnover.

Second, the National Sheriffs' Association supports transparency in all the costs and so-called "commissions," pejoratively referred to as "kickbacks," associated with inmate calling service rates. In this regard, again, one must not neglect to take into consideration, and calculation, the substantial costs for jails associated with establishing, maintaining, and updating inmate calling service systems. The so-called "commissions" are used by jails as "cost recovery" mechanisms to recoup the administration costs of inmate calling services. In addition, depending on the locality, part of the so called "commissions" are used for jail inmate welfare and benefit programs.

For example, unlike the State prisons in California, local county jails in that State do not receive funding to provide such welfare and benefits to inmates as recreation supplies, education and vocations programs, prisoner-re-entry services, etc. These benefits are provided by the Los Angeles County Sheriff's Office via the revenue-sharing negotiated contracts between the Sheriff's Office and the ICS Service Providers.

Third, and finally, the National Sheriffs' Association is committed to working in partnership with the FCC, inmate families, and calling service providers to ensure just and reasonable Inmate Calling Service rates. AND, in this work to ensure just and reasonable rates, we ask that you also partner with the National Sheriffs' Association to help us ensure public safety, including safety for the staff and inmates of jails.

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*March 25, 2013 letter to Marlene H. Dortch, Secretary, FCC  
from Sheriff Larry D. Amerson, NSA President*

RE: WC Docket No. 12-375 (Rates for Interstate Inmate Calling Services)

Dear Madam Secretary:

I write on behalf of the National Sheriffs' Association (NSA), and the more than 3,000 elected Sheriffs nationwide that NSA represents, to file our Comment on the FCC's proposed rulemaking on Rates for Interstate Inmate Calling Services (ICS).

Sheriffs are typically the chief law enforcement official of their counties, and in addition to their policing duties also provide courthouse security and operate about 80% of the jails in this country. Accordingly, Sheriffs have a very real, public-safety interest in the FCC's proposed rulemaking on Rates for Interstate Inmate Calling Services, and we must have input into ICS rate structures!

The rates and realities of inmate calling services are often unknown and misunderstood by those outside the field of professional jail practitioners. Sheriffs are the experts in the operation of America's jails. And, as elected officials, representing the families of inmates, we understand the need for a balanced approach. But, lives depend on good security.

NSA certainly supports any FCC rulemaking "to ensure just and reasonable ICS rates for interstate, long distance calling at publicly- and privately-administered correctional facilities." However, it is imperative in this FCC rulemaking that Sheriffs continue to have control over and the ability to monitor – via cost-effect rate structures and a practical phone system – the communications that inmates have with others outside of the jail!

There are dangerous individuals in local jails who, via ICS, try to continue their criminal activities on the outside while they are incarcerated. Sheriffs have learned through hard experience that inmates communicate with other criminals outside the jail, as well as with inmates in other jails and prisons, to circumvent security. Inmates contact witnesses with wrongful intent. They call their victims. They plot and plan criminal enterprises. And these ICS events take place with startling regularity, literally every day.

Furthermore, the leaps in technology of computers and smart phones require that jails continually update ICS systems to ensure that mechanisms are in place to monitor and detect criminal activities. Everyone recognizes that traditional phone service by hardwired telephones has almost disappeared. Enhancements in calling services for inmates and their families, such as video visitation, Internet visitation, FaceTime, Skype, etc., require corresponding enhancements in ICS security measures. Accordingly, Sheriffs must have flexible and comprehensive monitoring and reporting capabilities built into the next generation ICS systems to deal with the next generation phone technologies. These security requirements are unique to jails and prisons, and they do increase the costs of calls for inmates and their families. But, these are costs that must be factored in when structuring ICS rates.

Under the current system in many jails, one service provider is contracted with to control and monitor inmate calls. Although this setup may not provide the rock bottom rate structure for inmate's phone services, it facilitates law enforcement's ability to monitor and track inmate calling for victim protection, investigative resources, and other public safety purposes. And the commissions sometimes received by Sheriff's Offices from ICS system providers for inmate calls provide the funding necessary to internally administer the phone system. Absent these commissions, counties would need to either increase taxes for the system or jails could potentially cease to provide inmates with this service.

In summary, on behalf of this nation's Sheriffs, NSA recognizes that maintenance of communication with family can have a positive influence for an inmate's re-integration into

society after release. Furthermore, we support “just and reasonable” interstate calling rates. However, NSA strongly opposes any FCC rulemaking that would compromise public safety, put additional burdens on taxpayers, or force Sheriffs to discontinue providing inmates with phone services. Moreover, insofar as we are responsible for 80% of this nation’s jails, it hopefully goes without saying that Sheriffs must be consulted, and our expertise incorporated, in any FCC rulemaking on Rates for Interstate Inmate Calling Services!

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